IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

WP(C).No. 27794 of 2006(H)

PETITIONER:

P.ABDUL RASHEED,
PALANKODAN HOUSE, P.O.PANNIYANKURISSY,
VIA. CHERPLASSERY, PALAKKAD.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENTS:
----

1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, PALAKKAD.

ADDL.R2. C.L.PATHROSE, S/O.LUCKOSE,
AGED 65, RESIDING AT CHINGANKULANGARA HOUSE,
KARARA, P.O. AGALI, MANNARKAD.

ADDL.R3. SRI.P.HAMZA, S/O LATE HUSSAIN,
PAVADI HOUSE, PAYYANADAM P.O,
MANNARKAD.

(ADDL.R2 & R3 IMPLEADED VIDE ORDER DATED 13/12/2006 IN I.A.NO.16917/2006)

ADDL.R4: REGIONAL TRANSPORT AUTHORITY, PALAKKAD.

(ADDL.R4 IS IMPLEADED VIDE JUDGMENT DATED 13/12/2006)

BY ADV. SRI.I.DINESH MENON FOR R2 AND R3
GOVERNMENT PLEADER SMT.D.RENU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 27794/2006

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE PROCEEDINGS DATED 28.10.2005.

1ST RESPONDENT'S EXHIBITS

ANNEXURE R1(a): COPY OF COVERING LETTER SUBMITTED BY THE PETITIONER ON 16/10/2006.

EXHIBITS OF R2

EXHIBIT R2(a): TRUE COPY OF THE REGULAR PERMIT ISSUED TO THE PETITIONER.

EXHIBIT R2(b): TRUE COPY OF THE TIMING OF THE PETITIONER'S SERVICE DATED 01/07/2004.

EXHIBIT R2(c): TRUE COPY OF THE PROCEEDINGS ISSUING TIMINGS TO THE 2ND PETITIONER DATED 20.04.2006.

EXHIBIT R2(d): TRUE COPY OF THE JUDGMENT IN WP(c) NO.7587/06 DATED 25.05.2006.

EXHIBTI R2(e): TRUE COPY OF THE JUDGMENT IN WP(c)NO.23333/06 DATED 11.09.2006.

EXHIBIT R2(f): TRUE COPY OF THE JUDGMENT IN WP(c) NO.27083/2003 DATED 25/08/2003.

//TRUE COPY//

P.A. TO JUDGE

P.R.RAMAN, J.

W.P.(C) NO. 27794 OF 2006

Dated this the 13th day of December, 2006

J U D G M E N T

Petitioner was granted with regular permit on the route Mannarghat-Agali as per the proceedings of the RTA dated 28/10/2005, produced as Exhibit P1. In Exhibit P1 decision it is recorded that regular permit was granted to Stage Carriage Vehicle KL-9/H 6296 subject to settlement of timings. However, timings could not be settled until 20/07/2006. If the timings were settled before that, normally on the production of the records, the petitioner would have been issued a permit to the vehicle as mentioned in Exhibit P1. In the counter statement filed for and on behalf of the respondent, it is admitted that the current records of the vehicle KL-9/H 6296 was produced on 22/11/2005. It is well within the period of one month from the date of Exhibit P1. As a matter of fact as per Rule 159 only at the time of issuance of the permit, that certificate of registration need be produced in case such certificate of registration could not be produced on the date of the application for permit. However, a further period of three months can also be availed as may be sanctioned by the authority

concerned. However, in this case the issuance of the permit has not been taken place and the timing conference itself was held only on 20/07/2006. The petitioner submitted a letter dated 16/10/2006 seeking to avail the granted permit by the later model vehicle KL-10/R 8686 instead of KL-9/H 6296.

2. The contention raised by the petitioner is that since he was not issued with any permit, the change in the vehicle is of no consequence. The fact that he has mentioned the number of the vehicle and produced records thereto within a period of one month will not take away his right as conferred under Rule 159 of the rules which only provides that such registration of the vehicle need be produced within one month from the date of sanctioning of the grant or with such extended period of three months as the case may be.

3. The additional respondent impleaded on the other hand would contend that merely for the reason that the petitioner wanted to substitute the vehicle with a later model vehicle, the timings already settled cannot be changed. Therefore, to the extent, the prayer for convening another settlement conference is seriously opposed.

4. The learned Government pleader appearing on behalf of the State would submit that the authorities has not taken any decision on the application submitted by the petitioner produced as Exhibit R1(a) and the competent authority to consider such application is the RTA concerned.

5. Having heard the learned Government pleader, the counsel appearing for the additional respondent and the petitioner, following directions are issued.

6. The RTA, Palakkad, for the limited purpose of issuing this direction is impleaded as a party suo motu by this court. He shall consider Exhibit R1(a) and dispose of the same in accordance with law. Of course, if the Secretary, RTA has been delegated in this behalf, this direction need be complied with by the Secretary, RTA. However, in case a favourable decision is taken on Exhibit R1(a), it is made clear that there is no need of convening any conference for settling the timings and the permit if any, has to be issued only to the said timings already settled.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp